

## **§216.52**

- (1) Age 60 or older;
- (2) Less than age 60 and have in his or her care a disabled child or a minor child (a child under 18 years old if the spouse claimant is a wife, or under 16 years old if the spouse claimant is a husband) of the employee; or
- (3) Age 60 but less than retirement age. In such case, the tier I component is reduced if the following conditions are met:
  - (i) The employee was under age 62 at the time his or her annuity began;
  - (ii) The employee annuity began after June 30, 1984;
  - (iii) The employee was under age 60 on June 30, 1984 or completed 30 years of railroad service after June 30, 1984; and
  - (iv) The spouse annuity begins after June 30, 1984.

### **§216.52 Who is eligible for an annuity as a divorced spouse.**

To be eligible for a divorced spouse annuity, the employee annuitant must be at least age 62 and the divorced spouse (see §222.22 of this chapter) must:

- (a) Be the divorced wife or husband of an employee;
- (b) Stop work for a railroad employer;
- (c) Not be entitled to an old-age or disability benefit under the Social Security Act based on a primary insurance amount that is equal to or greater than one-half of the employee's tier I primary insurance amount; and either
- (d) Have attained retirement age; or
- (e) Have attained age 62 but be under retirement age. The annuity is reduced for each month the spouse is under retirement age at the time the annuity begins.

### **§216.53 What is required for payment.**

An eligible spouse or divorced spouse must:

- (a) Apply to be entitled to an annuity; and
- (b) Give up the right to return to work for a railroad employer.

(Approved by the Office of Management and Budget under control number 3220-0016 and 3220-0042)

## **20 CFR Ch. II (4-1-02 Edition)**

### **§216.54 Who is an employee's wife or husband.**

An employee's wife or husband is an individual who—

- (a) Is married to the employee; and
- (b) Has been married to the employee for at least one year immediately before the date the spouse applied for annuity;
- (c) Is the natural parent of the employee's child;
- (d) Was entitled to an annuity as a widow(er), a parent, or a disabled child under this part in the month before he or she married the employee; or
- (e) Could have been entitled to a benefit listed in paragraph (d) of this section, if the spouse had applied and been old enough in the month before he or she married the employee.

## **Subpart G—Widow(er), Surviving Divorced Spouse, and Remarried Widow(er) Annuities**

### **§216.60 General.**

The Railroad Retirement Act provides annuities for the widow(er), surviving divorced spouse, or remarried widow(er) of an employee. The deceased employee must have completed 10 years of railroad service and have had a current connection with the railroad industry at the time of his or her death. A widow(er), surviving divorced spouse, or remarried widow(er) may receive an annuity based on age, on disability, or on having a child of the employee in his or her care.

### **§216.61 Who is eligible for an annuity as a widow(er).**

(a) A widow(er) of an employee who has completed 10 years of railroad service and had a current connection with the railroad industry at death is eligible for an annuity if he or she:

- (1) Has not remarried; and either
- (2) Has attained retirement age;
- (3) Is at least 50 but less than 60 years of age and became disabled as defined in part 220 of this chapter before the end of the period described in §216.68 (this results in a reduced annuity);
- (4) Is less than retirement age but has in his or her care a child who either is under age 18 (16 with respect to the tier I component) or is disabled and